

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DALMATIA IMPORT GROUP, INC. and	:	
MAIA MAGEE,	:	
	:	CIVIL ACTION NO. 16-2767
Plaintiffs,	:	
	:	
v.	:	
	:	
FOODMATCH, INC.,	:	
LANCASTER FINE FOODS, INC.,	:	
EARTH PRIDE ORGANICS, LLC,	:	
C.O. NOLT, INC., and	:	
MICHAEL S. THOMPSON,	:	
	:	
Defendants.	:	

DALMATIA’S PROPOSED VERDICT FORM

In answering these questions, you are to follow all of the instructions I have given you in the Court's charge. As used herein, "Dalmatia" means Dalmatia Import Group, Inc.; "FoodMatch" means FoodMatch, Inc.; "Lancaster" means Lancaster Fine Foods, Inc.; "Earth Pride" means Earth Pride Organics, LLC; "C.O. Nolt" means C.O. Nolt, Inc.

WE, THE JURY, UNANIMOUSLY AGREE on the answers to the following questions and return them under the instructions of this Court as our verdict in this case.

DALMATIA'S CLAIMS FOR MISAPPROPRIATION OF TRADE SECRETS

Question No. 1:

Do you find that Defendants misappropriated Dalmatia's trade secrets in violation of the Pennsylvania Uniform Trade Secrets Act?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Question No. 2:

Do you find that Defendants misappropriated Dalmatia's trade secrets in violation of the federal Defend Trade Secrets Act?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered "YES" to any part of Question Nos. 1 or 2, proceed to Question No. 3. If you answered "NO" to all of Question Nos. 1 and 2, leave Question No. 3 blank and skip to Question No. 4a.

Question No. 3:

If you found that Defendants misappropriated Dalmatia's trade secrets, do you find that the misappropriation was willful and malicious?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

DALMATIA'S CLAIMS FOR BREACH OF CONTRACT

Question No. 4a:

Do you find that FoodMatch breached its contractual obligations to Dalmatia under the Distribution Agreement before December 22, 2015?

☐ Yes

☐ No

Question No. 4b:

Do you find that FoodMatch breached its contractual obligations to Dalmatia under the Distribution Agreement on or after December 22, 2015?

☐ Yes

☐ No

Question No. 4c:

Do you find that FoodMatch breached its contractual obligations to Dalmatia under the Non-Disclosure Agreement?

☐ Yes

☐ No

Question No. 4d:

Do you find that that Lancaster breached its contractual obligations to Dalmatia under the Supply Agreement?

☐ Yes

☐ No

Question No. 4e:

Do you find that Lancaster breached its contractual obligations to Dalmatia under the Lancaster Non-Disclosure Agreement?

☐ Yes

☐ No

DALMATIA'S CLAIM FOR INTENTIONAL INTERFERENCE WITH CONTRACT

Question No. 5:

Do you find that FoodMatch is liable for intentional interference with the Lancaster Supply Agreement or the Lancaster Non-Disclosure Agreement?

☐ Yes

☐ No

If you answered "YES" to Question No. 5, proceed to Question No. 6. If you answered "NO" to Question No. 5, leave Question No. 6 blank and skip to Question No. 7.

Question No. 6:

Do you find that FoodMatch should pay punitive damages for Dalmatia's claim of intentional Interference with Contract?

☐ Yes

☐ No

DALMATIA'S CLAIMS FOR TRADEMARK INFRINGEMENT AND COUNTERFEITING**Question No. 7a:**

Do you find that Defendants infringed the DALMATIA trademark (Trademark No. 2,918,383)?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered “YES” to any part of Question No. 7a, proceed to Question No. 7b. If you answered “NO” to all of Question No. 7a, leave Question No. 7b blank and skip to Question No. 8a.

Question No. 7b:

If you found that Defendants infringed the DALMATIA trademark, was the infringement willful?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Question No. 8a:

Do you find that Defendants infringed Dalmatia's JAR CONFIGURATION trademark (Trademark No. 3,667,176)?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered "YES" to any part of Question No. 8a, proceed to Question No. 8b. If you answered "NO" to all of Question No. 8a, leave Question No. 8b blank and skip to Question No. 9a.

Question No. 8b:

If you found that Defendants infringed the Dalmatia JAR CONFIGURATION trademark, was the infringement willful?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Question No. 9a:

Do you find that Defendants engaged in trademark counterfeiting for the DALMATIA trademark (Trademark No. 2,918,383)?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered “YES” to any part of Question No. 9a, proceed to Question No. 9b. If you answered “NO” to all of Question No. 9a, leave Question No. 9b blank and skip to Question No. 10a.

Question No. 9b:

If you found that Defendants engaged in trademark counterfeiting for the DALMATIA trademark, was the conduct willful?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Question No. 10a:

Do you find that Defendants engaged in trademark counterfeiting for Dalmatia's JAR CONFIGURATION trademark (Trademark No. 3,667,176)?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered “YES” to any part of Question No. 10a, proceed to Question No. 10b. If you answered “NO” to all of Question No. 10a, leave Question No. 10b blank and skip to Question No. 11.

Question No. 10b:

If you found that Defendants engaged in trademark counterfeiting for Dalmatia's JAR CONFIGURATION trademark, was the conduct willful?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Question No. 11:

If you found that Defendants infringed Dalmatia's trademark or engaged in trademark counterfeiting (by answering "YES" to any part of Question Nos. 7a, 8a, 9a, or 10a), what were Defendants' profits as a result of that conduct?

\$ _____

Question No. 12:

If you found that Defendants infringed Dalmatia's trademark or engaged in trademark counterfeiting (by answering "YES" to any part of Question Nos. 7a, 8a, 9a, or 10a), what damages were sustained by Dalmatia as a result of that conduct?

\$ _____

DALMATIA'S CLAIM FOR UNFAIR COMPETITION**Question No. 13:**

Do you find that Defendants engaged in unfair competition?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

DALMATIA'S CLAIM FOR CIVIL CONSPIRACY**Question No. 14:**

Do you find that Defendants engaged in a civil conspiracy to misappropriate Dalmatia's trade secrets, to breach contractual obligations to Dalmatia, or to commit trademark infringement, trademark counterfeiting, or unfair competition?

FoodMatch	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
C.O. Nolt	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered "YES" to any part of Question No. 14, proceed to Question No. 15. If you answered "NO" to all of Question No. 14, leave Question No. 15 blank and skip to Question No. 16.

Question No. 15:

Do you find that Defendants should pay punitive damages for Dalmatia's claim of Civil Conspiracy?

☐ **Yes** ☐ **No**

DALMATIA'S CLAIM FOR CONVERSION**Question No. 16:**

Do you find that Defendants Lancaster, Earth Pride or Michael S. Thompson committed conversion?

Lancaster	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Earth Pride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael S. Thompson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If you answered “YES” to any part of Question No. 16, proceed to Question No. 17. If you answered “NO” to all of Question No. 16, leave Question No. 17 blank and skip to Question No. 18.

Question No. 17:

Do you find that Defendants Lancaster, Earth Pride or Michael S. Thompson should pay punitive damages for Dalmatia's claim of Conversion?

☐ **Yes** ☐ **No**

DAMAGES ON DALMATIA'S CLAIMS

Question No. 18:

If you found that one or more Defendants engaged in trademark counterfeiting (by answering "YES" to any part of Question Nos. 7a, 8a, 9a, 10a), what total amount of statutory damages is Dalmatia entitled to?

\$ _____

Question No. 19:

If you found that one or more Defendants misused Dalmatia's proprietary information (by answering "YES" to any part of Question Nos. 1, 2, 4a, 4b, 4c, 4d, 4e, 5, 13 or 14), what amount of damages is Dalmatia entitled to for the harm that it suffered?

\$ _____

Question No. 20:

If you found that one or more Defendants misappropriated Dalmatia's trade secrets (by answering "YES" to any part of Question Nos. 1 or 2) and that the conduct was willful and malicious (by answering "YES" to any part of Question No. 3), what amount of exemplary damages is Dalmatia entitled to?

\$ _____

Question No. 21:

If you found that FoodMatch breached its contractual obligations to Dalmatia under the Distribution Agreement (by answering “YES” to Question Nos. 4a, 4b or both), what amount of damages did Dalmatia suffer as a result of Defendants’ sale of the Divina product?

\$ _____

Question No. 22:

If you found that FoodMatch breached its contractual obligations to Dalmatia under the Distribution Agreement (by answering “YES” to Question Nos. 4a, 4b or both), what amount of additional damages is Dalmatia entitled to?

\$ _____

Question No. 23:

If you found that Lancaster breached its contractual obligations to Dalmatia under the Supply Agreement (by answering “YES” to Question No. 4d), what amount of damages did Dalmatia suffer as a result of Defendants’ manufacture and sale of the Divina product?

\$ _____

Question No. 24:

If you found that Lancaster breached its contractual obligations to Dalmatia under the Supply Agreement (by answering “YES” to Question No. 4d), what amount of additional damages is Dalmatia entitled to?

\$ _____

Question No. 25:

If you found that Defendants Lancaster, Earth Pride or Michael S. Thompson are liable for Conversion (by answering “YES” to Question No. 16), what amount of damages is Dalmatia entitled to?

\$ _____

Question No. 26:

If you found that Defendants Lancaster, Earth Pride, or Michael S. Thompson should pay punitive damages for Conversion (by answering “YES” to Question No. 17), what amount is Dalmatia entitled to?

\$ _____

Question No. 27:

If you found that Defendants should pay punitive damages for Dalmatia’s claim of Civil Conspiracy (by answering “YES” to Question No. 15), what amount is Dalmatia entitled to?

\$ _____

Question No. 28:

If you found that FoodMatch should pay punitive damages for Dalmatia’s claim of Intentional Interference with Contract (by answering “YES” to Question No. 6), what amount is Dalmatia entitled to?

\$ _____

Your deliberations are now over. The jury foreperson should sign and date the Verdict Form and alert the Court that a verdict has been reached.

Signed this ____ day of February, 2017.

JURY FOREPERSON